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ABSTRACT

Designed for use by high school and college students who may need to use a law library to research a topic related to U.S. government, history, or law-related education, this pamphlet contains step-by-step instructions for locating and using legal materials. Students are introduced to four methods of legal research: the topic method, which consists of searching legal encyclopedias and digests for case names and citations on a particular subject; the descriptive word method of using encyclopedia and digest indices; the case method; and the method that uses the set of 46 volumes entitled "Words and Phrases." Each method is described and sample citations from resources appropriate to each method are provided. Additional instructions on how to obtain copies of laws and cases are provided. (LP)

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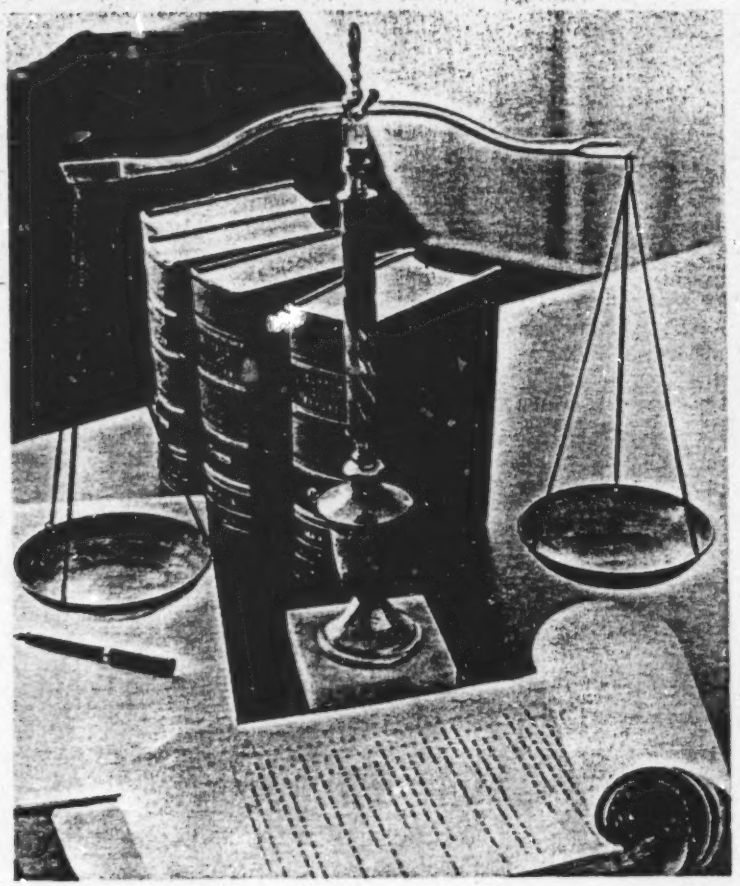

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HOW TO USE A LAW LIBRARY

Have you ever wondered what all those numbers and letters that follow the name of a U.S. Supreme Court decision mean?

Have you ever wanted to find a Supreme Court decision and read it?

Have you ever tried to read a decision, but found yourself unable to understand some aspects of it?

Have you ever wanted to write a report on a certain area of the law, but did not know how to go about researching it?

The answers to these questions, and others, are easy - once you learn the most fundamental ways to use a law library.

The lawyers who go before the Supreme Court, or any court, to argue a case all have one thing in common. Each has spent many long hours in a law library carefully researching every detail of his or her case.

Knowing how to use a law library may be the most important tool a lawyer has. With it he or she can become knowledgeable in almost any field of law.

It does not take years to learn how to use a law library. All that is needed is an understanding of where things are located, and how to find them.

Suppose you have to write a report on capital punishment. Also assume that you want to read the Supreme Court's opinions on capital punishment. The books you will need for this purpose are usually found only in law libraries. The first thing you will have to do, therefore, is to find a law library which will allow you to use its facilities.

Most counties have law libraries in or near their court houses which are open to the public, as do many colleges and law schools. After you have located a nearby law library, be sure to call ahead to find out when it is open, if you can use its facilities, and if there are any special rules you will have to follow. You or your teacher might be able to arrange for the librarian to give you a tour of the library, too.

Once you are inside a law library, there are four basic methods you can use to find and research an area of the law.

THE TOPIC METHOD

The first method involves looking through various types of legal

encyclopedias and digests for the names and citations of cases involving a particular subject or topic. This is known as the topic method. It should be used when you want to research a topic, like capital punishment, but do not know the names of the cases you want to read.

Legal encyclopedias provide an excellent source of background information on almost every area of law. In addition to having a summary of the law in these areas, the legal encyclopedias contain the names of the most important cases decided in each area. The cases are both federal and state, depending on which encyclopedia you use. The two most widely used are called American Jurisprudence, Second Edition, (Am Jur 2d), and Corpus Juris Secundum (C.J.S.). Both contain federal and state decisions.

In order to find the proper topics and sections for your report, first look in the encyclopedia's "General Index" under the title of your topic. The index will direct you to many sections in the rest of the encyclopdia. Under "Capital Punishment", for instance, the C.J.S. "General Index" contains these references to a variety of of subjects and entries (See Figure 1).

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FIGURE 1

CAPITAL PUNISHMENT
Generally, see Title Index to Criminal Law
Armed forces, court-martial, Army & N § 57, p. 457
Designation of time and place, sentence, Army & N § 57, p. 459
Assignment of counsel, due process of law, Const Law § 591, p. 669
Bail,
Reversal of conviction, bail after, Bail § 36
Review, bail pending, Bail § 36
Bills and notes, illegality of consideration for services in procuring commutation of, Bills & N § 154, p. 630, n. 59
Compulsory commutation of sentence, statute, constitutionality, Const Law § 132, n. 93
Constitutional law, setting aside, Const Law § 593, n. 30.5
Dismissal of appeal suspending execution of sentence, clerk as authorized to notify superintendent of penal institution, Const Law § 173, p. 864
Electrocution,
Cruel and unusual punishment, Crim Law § 1978
Due process of law as not violated by provision for, Const Law § 593, p. 681
Expert testimony as to, Evid § 537, p. 263

These entries contain summaries of the law in the various areas. Along with each summary are a number of footnotes which contain the names and citations of the leading cases in the area of law you are researching. You should copy down the ones you will be most interested in. Be sure to copy the number and letter which follow the case names too. They are the citation and their importance will be discussed later.

Before you put the volume back on the shelf, make sure you turn to the back cover of the hardback volume. There you will find a paperback stuffed into a pocket. This paperback contains many cases which have been decided more recently, and any changes in the law which have occurred since the publishing of the main volume. Look through this pamphlet, known as the supplement or pocket part for the section which corresponds with the one you were reading in the main volume. See if there have been any more recent cases, or changes in the law. This process is known as up-dating your search. It should be used with every resource book in the law library.

A second source for background information and names of cases in various areas of the law is a digest. A digest is a multi-volumed series of books which contain a paragraph or two about each case decided in almost every area of the law. These paragraphs are the

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publisher's opinion of the law decided upon by the court in the various opinions. They are not officially accurate.

If you want to find a United States Supreme Court opinion, the two best digests you can look through are the:

1. U.S. Supreme Court Digest
2. Lawyer's Edition, U.S. Supreme Court Reports Digest

Each digest is arranged by topics. There are two good ways of looking for cases in a digest. The first is to look through the Table of Contents for categories you may be interested in. Tables of Content are located at the front of the set of volumes, and at the beginning of each broad topic, such as Constitutional Law. This is known as the topic approach. You would then look through each possible topic for cases that might interest you.

DESCRIPTIVE WORD METHOD

A second way to find cases you are interested in is by looking in indexes of these same volumes under words which describe your topic. This is known as the descriptive word method.

To use this method you should make a list of every word or topic which could describe your topic. Capital Punishment, for example, could be described by words such as capital punishment, death penalty, electrocution, etc. It could also be described by topics such as constitutional law, cruel and unusual punishment, and due process of law, just to name a few.

Once you have made such a list, you go to the "Descriptive Word Index" of a digest and look under each word. Then turn to the correct section of the digest.

FIGURE 2

Constitutional Law

⇨270. —— Judgment and sentence.

U.S.Ala. & N.C. 1969. Where original conviction has been set aside because of constitutional error, any imposition of heavier sentence to penalize convicted person who chooses to exercise constitutional rights would be unconstitutional under due process clause of Fourteenth Amendment. U.S.C.A.Const. Amend. 14.—North Carolina v. Pearce, 89 S.Ct. 2072, 395 U.S. 711, 23 L.Ed.2d 656.

If first conviction has been set aside for nonconstitutional error, imposition of penalty upon defendant fo. having successfully pursued statutory right of appeal or collateral remedy would deny due process. U.S.C.A.Const. Amend. 14.—Id.

Due process requires that vindictiveness against defendant for having successfully attacked his first conviction play no part in sentence he receives after new trial. U.S.C.A.Const. Amend. 14.—Id.

Where at behest of petitioner, state criminal conviction had been set aside, unexplained threefold increase in punishment in new sentence violated due process clause. U.S.C.A.Const. Amend. 14.—Id.

U.S.Colo. 1967. Due process clause of Fourteenth Amendment does not ordinarily require a judge to have hearings and to give convicted person an opportunity to participate in those hearings when time comes for determination of sentence to be imposed. U.S.C.A.Const. Amend. 14.—Specht v. Patterson, 87 S.Ct. 1209, 386 U.S. 605, 18 L.Ed.2d 326.

U.S.Ga. 1973. If state concludes that jury sentencing is preferable, nothing in the due process clause of the Fourteenth Amendment intrudes upon that choice. U.S.C.A.Const. Amend. 14.—Chaffin v. Stynchcombe, 93 S.Ct. 1977, 412 U.S. 17, 36 L.Ed.2d 714.

Under our constitutional system, it is impermissible for sentencing authority to mete out higher sentences on retrial as punishment for those who successfully exercise their right to appeal or to attack collaterally their conviction, and fundamental notions of fairness embodied in concept of due process require that convicted defendants be freed of apprehension of such retaliatory motivation. U.S.C.A.Const. Amend. 14.—Id.

Jury's imposition of a greater sentence, after retrial of defendant who had collaterally attacked first judgment of conviction, did not violate double jeopardy clause and did not offend due process where jury at retrial was not informed of the lesser sentence imposed by a different jury at the first trial and there was no other showing that the second sentence was the product of vindictiveness. U.S.C.A.Const. Amends. 5, 14.—Id.

U.S.Ga. 1972. Imposition and carrying out of death penalty in cases before court would constitute cruel and unusual punishment in violation of Eighth and Fourteenth Amendments. Code Ga. §§ 26-1005, 26-1302; Vernon's Ann.Tex.P.C. art. 1189; U.S.C.A.Const. Amends. 8, 14.—Furman v. Georgia, 92 S.Ct. 2726, 408 U.S. 238, 33 L.Ed.2d 346, rehearing denied 93 S.Ct. 89, 409 U.S. 902, 34 L.Ed.2d 163, Jackson v. Georgia, 92 S.Ct. 89, 409 U.S. 902, 34 L.Ed.2d 164, on remand Sullivan v. State, 194 S.E.2d 410, 229 Ga. 731.

U.S.Ill. 1972. Under Eighth and Fourteenth Amendments, death penalty could not properly be imposed pursuant to Illinois statutes. U.S.C.

Let us say that you find the reference to the subject of capital punishment in the U.S. Supreme Court Digest, Descriptive Word Index (the index refers you first to Criminal Law and Constitutional Law). If you then looked up the

sections in the main digest volumes, and then up-dated, you would find these headnotes and cases in the supplement (See Figure 2). You could then look up these cases and then read what the courts said the law was.

CASE METHOD

The other general method for researching an area of the law is used when you know the name of a case in that area. This is known as the case method.

If you do not know the citation of the case you want to look up, the first place to look is in the TABLE OF CASES of a legal digest. These tables, arranged alphabetically, contain the name and citation of every case mentioned in the entire digest. Be certain to up-date your research if you do not find the name of your case in its proper place. Once you know the citation it should be easy for you to find the case itself by using the method outlined above.

If you know the citation and the name of the case, you can turn directly to the case and begin reading.

After you have finished reading the case you are interested in, you can do further research by turning to the beginning of the opinion. There you will find the headnotes and "Key Numbers" (if you are using the West Publication). These headnotes and "Key Numbers" refer to sections in the digests which contain information on the same subject. If you were interested in further research in the capital punishment area, for instance, and you had read Furman vs. Georgia, you could turn directly to sections 270 or 272 of Constitutional Law, or to section 1213 of Criminal Law in the Supreme Court Digest since that is what the headnote to the case is cross-referenced to. (See above) There you would find citations to the cases decided on the same topics.

Each state also has its own set of reporters, digests and sometimes encyclopedias. In addition there are digests and reporters for the federal court system, and for the United States Supreme Court. If you want to find them, or the abbreviations for them, ask your law librarian for help.

WORDS & PHRASES

A fourth way to research a topic of law is to use the set of volumes called Words and Phrases. It can be used to find cases which define and discuss legally important words and phrases.

The 46 volumes of this set of books are arranged alphabetically by the particular word or phrase you might be interested in. Below each phrase you will find short paragraphs from cases which have mentioned the key words. Unfortunately, the paragraphs are not always arranged in any particular order under the categories you look in. Because of this you must look through all of them to see if any interesting cases appear. Once again, you should up-date

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your search by checking in the pocket parts at the rear of the volume for any new cases.

If you were interested in researching the death penalty, for instance, one phrase which is legally significant in the capital punishment cases is "cruel and unusual punishment". If you looked in the volume containing "Creditors to Cystotomy" you would find headnotes from both state and federal cases which discussed the meaning of that phrase. Not all involve the death penalty, however, since the defendants in many other types of cases may have claimed that the government's actions toward them was "cruel and unusual punishment". Figure 3 contains a sample from the pocket supplement to Words and Phrases.

Once you have found an interesting case or two from Words and Phrases you can find more by using the case method discussed above.

CRUEL AND UNJUST TREATMENT

Return of defendant to New Mexico from Texas allegedly without extradition proceedings and allegedly without a waiver of extradition did not constitute "cruel and unjust treatment" in violation of state and federal constitutions. State v. Mosley, App., 445 P.2d 391, 392, 79 N.M. 514.

CRUEL AND UNUSUAL

Sentence which is within limits set by statute is not "cruel and unusual" within meaning of Eighth Amendment. Willoughby v. Phend, D.C.Ind., 301 F.Supp. 644, 646.

CRUEL AND UNUSUAL PUNISHMENT

In general

The suspension of driving license for refusal to submit to intoximeter test does not constitute "cruel and unusual punishment." Spencer v. State Dept. of Public Safety, La.App., 315 So. 2d 912, 913.

"Cruel and unusual punishments" are those that are barbarous, extraordinary or grossly disproportionate to the offense, those that shock the conscience of civilized men. Craft v. State, La.App., 308 So.2d 290, 294.

Use of the same prior conviction to elevate charge of possession of unloaded pistol to felony charge of criminal possession of weapon

FIGURE 3

LOCATING THE CASES

Once you have found the names of the cases you wish to look up and read, you are ready to search for them. This is where the citation comes into use. A citation contains the numbers and letters after the names of the case. For example, in the Furman vs. Georgia decision, the complete citation is: 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed. 2d 246 (1972). It directs you to the proper series of books, or reporters, the proper volume number and the correct page of the volume where the decision you are interested in is located.

Let us say that you were most interested in the Furman vs. Georgia decision. The complete citation means: Furman vs. Georgia is the name of the case. 408 U.S. 238 means that the case is located in volume 408 of the reporter United States Reports at page 238. It is also located at volume 92 of U.S. Supreme Court Reports at page 2726, and in volume 33 of Lawyers Edition, U.S. Supreme Court Reports at page 346. (1972) is the year of the decision.

Each of the references listed above is to a different set of reporters. All contain the same Furman case. United States Reports is the only official one, however. In other words, it is the only one that is officially accurate. However, because it is also the slowest to be published, most libraries contain at least one or two other reporters which are unofficial, but which are published

more quickly. In addition to the fact that the two unofficial volumes are printed more quickly, all three contain the same opinions which are usually equally accurate. The unofficial opinions also contain certain features which the official reporter does not, such as headnotes which are coordinated with the publishers' digests amd encylopedias.

If you turned to volume 92 of the Supreme Court Reports and and looked at page 2726, this is what you would see:

FIGURE 4

408 U.S. 238, 33 L.Ed.2d 346

William Henry FURMAN, Petitioner,
v.
State of GEORGIA.

Lucious JACKSON, Jr., Petitioner,
v.
State of GEORGIA.

Elmer BRANCH, Petitioner,
v.
State of TEXAS.

Nos. 69-5003, 69-5030, 69-5031.

Argued Jan. 17, 1972.

Decided June 29, 1972.

Certiorari was granted to review decisions of the Supreme Court of Georgia, 225 Ga. 253, 167 S.E.2d 628, and 225 Ga. 790, 171 S.E.2d 501, affirming imposition of death penalty on defendants convicted of murder and rape, and to review judgment of the Court of Criminal Appeals of Texas, 447 S.W.2d 932, affirming imposition of death penalty on defendant convicted of rape.

The Supreme Court held that imposition and carrying out of death penalty in cases before court would constitute cruel and unusual punishment in violation of Eighth and Fourteenth Amendments.

Judgment in each case reversed in part and cases remanded.

Mr. Justice Douglas, Mr. Justice Brennan, Mr. Justice Stewart, Mr. Justice White and Mr. Justice Marshall filed separate opinions in support of judgments.

Mr. Chief Justice Burger, Mr. Justice Blackmum, Mr. Justice Powell and Mr. Justice Rehnquist filed separate dissenting opinions.

Opinion on remand, 229 Ga. 731, 194 S.E.2d 410.

Constitutional Law ⇨270, 272
Criminal Law ⇨1213

Imposition and carrying out of death penalty in cases before court would constitute cruel and unusual pun-

Citations to other reporters containing the same case

Name of cases (although three cases were argued at the same time, only the first case name is used to designate the entire opinion).

Date case was argued before the Supreme Court

Docket numbers of the cases decided, used when the case was before the Supreme Court

Date case was decided by the Supreme Court

Summary of case history, including citations to decisions of state courts.

Summary of Supreme Court's decision

How each justice voted

Citation of later state court decision

Key Number reference to subjects in digest published by same company

Headnote

STATUTES

Note: Due to lack of space the following discussion will be limited to the system of finding federal statutes. Almost every state has a similar system of reporting statutes. Just ask your law librarian to direct you to the appropriate books.

Many times you are not as interested in finding a particular case as you are in finding the actual law or statute which was passed by the legislative body.

As you have learned in your history or civics classes, laws are written and passed by the state or federal legislature each year. They are also published in this manner, that is year by year.

This can pose great problems for someone interested in finding a statute because if he or she did not know the year in which the law was passed he or she would have to begin looking in the present year and look in volumes for each prior year, until the latest law on the topic was found.

To save students and lawyers time, Congress authorized the publishing of a set of all laws in force arranged by broad categories. Each category is then divided into numbered sections with a detailed index at the end. This set of volumes is called United States Code (abbreviated U.S.C.). To keep these volumes up to date there are pocket parts at the end of each volume which contain new laws and changes in these laws. Pocket parts should be checked whenever you use the volumes.

U.S.C. contains all public laws which are in force. A public law is one which is designed to affect the general public. U.S.C. does not contain any private laws, or those which are passed to meet the special needs of individuals or small groups. (Sometimes it is hard to tell which laws are public and which are private). U.S.C. also contains the entire United States Constitution and Bill of Rights.

The statutes are cited by title and section instead of by volume and page. Thus, 18 U.S.C. 1621 would be found by turning to Title 18 of United States Code and finding section 1621, which is between sections 1620 and 1622.

In addition to the official U.S.C., there are two well known unofficial sets of books containing the same statutes. These two editions are more helpful than the official volumes.

They are United States Code Annotated (U.S.C.A.) and United States Code Service (USCS). Each of these contains headnotes of decisions of cases discussing the particular statute and the laws' legislative history, as well as the same text of the statute. The two sets follow the same title and section number as the official edition to make them easy to use. One big advantage of these editions is that they are often brought up to date more frequently than are the official

volumes. So if you are looking for a statute which may have been passed or changed recently, or for cases which discuss a particular statute or provision of the Constitution, these editions may be more helpful than U.S.C.

If you want to find a statute which has been published more recently than this there are other sources you can use. Before a statute is published in U.S.C., the official form of every law passed is printed in a set of volumes called United States Statutes at Large. (Abbreviated Stat.) These volumes contain the accumulation of laws as they were passed, and are bound in one or more volumes and published for each legislative session or year. In other words, the laws are located in the volume of U.S. Statutes at Large covering the year or session during which it was passed.

The Statutes at Large contain an index for each session only. Thus, to search for a particular statute you would have to look through the indexes for the volumes corresponding to each session until you found it.

Citations to laws located in U.S. Statutes at Large correspond to volume and page, just like citations to cases.

One unofficial publication containing the text of recently passed statutes is called U.S. Code Congressional and Administrative News. It is published by West Publishing Company each two weeks during congressional sessions and each month when Congress is not in session. This publication also contains many charts and graphs and committee reports.

If you desire to get a copy of a law which you have read has just been passed you also can write to the appropriate branch of Congress, or to your representative in Congress for a copy of it. Laws in this form are called slip laws.

Figure I - "Capital Punishment" , General Index A-Complex, Corpus Jurus Secundum, 1959, pg. 773

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Figure 2 - "Constitutional Law", Vol. 5A, U.S. Supreme Court Digest, Lawyer's Edition, Cumulative Pocket Part, 1976

Figure 3 - "Cruel and Unjust Treatment", Words and Phrases, Vol. 10A, Cumulative Annual Pocket Part, 1976.

Figure 4 -Vol. 92, U.S. Supreme Court Reports, 1972

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